



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35823]

East Broad Top Railroad Preservation Association—Acquisition and Operation

Exemption—Kovalchick Salvage Corporation

East Broad Top Railroad Preservation Association (the Association), a noncarrier, filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate a line of railroad (the Line) near Mt. Union, Pa. The Line consists of two segments: (1) the Mount Union Industrial Track (MUIT), extending between Railroad milepost 0.2, immediately west of the point of switch at Railroad Station 4085+96 at the junction with Norfolk Southern Railway (NSR) at Mt. Union, Pa., to the end of the track at milepost 1.4 at Railroad Station 4025+00, and (2) the original East Broad Top Main Line (EBT) extending from its connection with the MUIT at MUIT milepost 1.1, MUIT Railroad Station 4038+39 (EBT milepost 1.1, EBT Railroad Station 77+57) to EBT milepost 4.4.¹

¹ As set forth later in this notice, the Association acquired the Line in 2013 but only now is seeking Board authority for its acquisition. Also, a clarification filed by the Association and the East Broad Top Connecting Railroad (EBTCR) on May 30, 2014, corrects the mileposts of the EBT. A further clarification filed on June 3, 2014, confirms that the portion of the MUIT acquired by the Association extends between mileposts 0.2 and 1.4. As corrected, therefore, the verified notice pertains to the portion of the MUIT acquired by the Association between milepost 0.2 and milepost 1.4 (1.2 miles) and the portion of the EBT acquired by the Association between its connection with the MUIT at MUIT milepost 1.1 (EBT milepost 1.1) and EBT milepost 4.4 (3.3 miles), for a total distance of 4.5 miles.

The Line was formerly owned by the Kovalchick Salvage Corp. (KOV²) and now is owned by the Association. The Association acquired the Line from KOVC in 2013 and belatedly seeks Board authority for that acquisition now.

The Association states that no common carrier service has been provided over the MUIT since Conrail filed for abandonment in 1997. The Association also states that no common carrier freight rail service has been provided over the EBT in many years. The Association states that it will enter into an operating agreement with a newly formed Class III common carrier, EBTCR, to operate over the Line.³ This includes providing service over the EBT when that trackage becomes capable of handling standard gauge cars following conversion of the EBT from a narrow gauge line to dual gauge.

The Association states that the Line has a physical connection with NSR at milepost 0.2, there are no other connections with common carrier railroads, and there is no agreement containing any provision imposing interchange commitments or restricting the Association's ability to interchange traffic with other carriers.

² The MUIT was owned by Consolidated Rail Corp. (Conrail) and purchased by KOVC pursuant to an offer of financial assistance under 49 U.S.C. § 10904. See Consol. Rail Corp.—Aban.—Huntingdon Cnty., Pa., AB 167 (Sub-No. 1175) (STB served Apr. 10, 1997). In 1956, the EBT was authorized for abandonment, see E. Broad Top R.R. & Coal Co. Abandonment, 295 I.C.C. 814 (1956), and apparently purchased by the then-owner of KOVC, see Tex. & Okla. R.R.—Acquis. & Operation Exemption—Atchison, Topeka, and Santa Fe Ry., FD 31870, at n.13 (ICC served April 20, 1992) (describing how East Broad Top Railroad ceased freight operations and was “shut down” in 1956 by its then-owner and subsequently was purchased by the then-owner of KOVC).

³ On March 20, 2014, EBTCR filed a verified notice of exemption seeking authority to operate over the Line in East Broad Top Connecting Railroad—Operating Exemption—East Broad Top Railroad Preservation Ass’n, Docket No. FD 35811.

The Association certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million.

This exemption will become effective on July 3, 2014 (30 days after the verified notice of exemption was filed).⁴

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 26, 2014 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35823, must be filed with the Surface Transportation Board, 395 E Street S.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Strasburger & Price, LLP, 1025 Connecticut Ave., N.W., Suite 717, Washington, DC 20036.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: June 12, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner

⁴ The verified notice is deemed to have been filed on June 3, 2014, the date of the Association’s and EBTCR’s second clarification.

Clearance Clerk

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